

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NORTH CAROLINA

ROBERT W. JAMES, SR. for the Estate  
of Ned Russell James, et al.

vs.

KINDRED NURSING CENTERS, EAST,  
L.L.C., et al.

FILED  
STATESVILLE, N.C.  
2003 OCT 31 PM 2:08  
MOTION TO QUASH SUBPOENA  
FOR TESTIMONY REGARDING  
NED RUSSELL JAMES AND  
JEAN JAMES CONTAINED  
AT THE DEPARTMENT OF  
SOCIAL SERVICES

5:02CV157

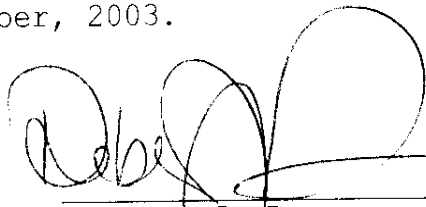
**NOW COMES**, the Lincoln County Department of Social Services and respectfully moves to quash that portion of the attached Subpoena which requires Susan McCracken to produce, permit for inspection and copying the records held by the Department of Social Services with regards to Ned Russell James and Jean James. Additionally, the Department requests the Court to issue an Order protecting the records, for the records are privileged, and the Subpoena is too extensive in range and too broad.

In the alternative, if the Court is of the opinion that a blanket Motion to Quash is not merited, the movant respectfully requests that the Court in chambers examine the documents and discuss the file with the social workers separately and make an independent determination as to which, if any, documents should be produced.

**WHEREFORE**, your movant respectfully prays the Court as follows:

1. That the attached Subpoena be quashed in its entirety.
2. That in the alternative, the Court examine the documents and discuss the file with the social workers in chambers and make an independent and separate determination as to each document, the proposed testimony, and make specific findings of fact and orders as to what, if any, reports the movant should produce.

This the 30<sup>th</sup> day of October, 2003.

  
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Rebecca J. Pomeroy  
Attorney for the Lincoln County  
Department of Social Services  
Post Office Box 38  
Lincolnton, North Carolina 28093  
(704) 735-1423

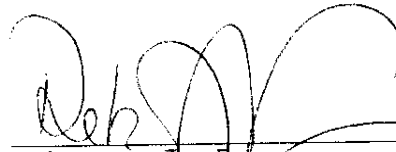
### CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing Motion to Quash Subpoena has been served upon the following attorneys of record by depositing it, enclosed in a postpaid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service as follows:

Harriett Smalls  
Kindred Nursing Centers East, L.L.C. et al  
PO Box 21927  
Greensboro, NC 27420

Michael Levine  
Mills & Levine, P.A.  
PO Box 3308  
Mooresville, NC 28117

This the 30<sup>th</sup> day of October, 2003.



Rebecca J. Pomeroy  
Attorney for the Lincoln County  
Department of Social Services  
Post Office Box 38  
Lincolnton, North Carolina 28093  
(704) 735-1423

Issued by the  
UNITED STATES DISTRICT COURT

WESTERN

DISTRICT OF

NORTH CAROLINA

Robert W. James, Sr., for the Estate of Ned  
Russell James, et al.

SUBPOENA IN A CIVIL CASE

v.

Kindred Nursing Centers East, L.L.C., et al.

Case Number: 1 5:02CV157-V

TO: Susan McCracken, Director  
Department of Social Services  
151 Sigmon Road  
Lincolnton, NC 28092

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

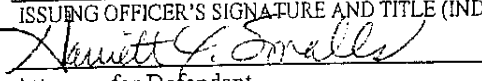
Any and all records relating to Jean James. (Social Security # 244-26-0265)

PLACE: Smith Moore LLP 300 North Greene Street, Suite 1400 Greensboro, NC 27401	DATE AND TIME: September 23, 2003
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YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 Attorney for Defendant	9/8/2003

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER  
Harriett Smalls, Esq. (336) 378-5424  
Smith Moore LLP  
300 North Greene Street, Suite 1400  
Greensboro, NC 27401

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

Issued by the  
UNITED STATES DISTRICT COURT

WESTERN

DISTRICT OF

NORTH CAROLINA

Robert W. James, Sr., for the Estate of Ned  
Russell James, et al.

SUBPOENA IN A CIVIL CASE

v.

Kindred Nursing Centers East, L.L.C., et al.

Case Number:<sup>1</sup> 5:02CV157-V

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Department of Social Services  
151 Sigmon Road  
Lincolnton, NC 28092

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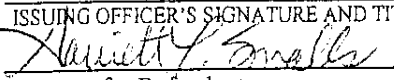
Any and all records relating to Ned Russell James. (Social Security # 240-20-7052)

PLACE: Smith Moore LLP 300 North Greene Street, Suite 1400 Greensboro, NC 27401	DATE AND TIME: September 23, 2003
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YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

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ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 Attorney for Defendant	9/8/2003
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
Harriett Smalls, Esq. (336) 378-5424	
Smith Moore LLP	
300 North Greene Street, Suite 1400	
Greensboro, NC 27401	

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

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